

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	CRIMINAL NO. 04-10215-GAO
)	
DWAYNE BRANCO,)	
Defendant.)	

PRELIMINARY ORDER OF FORFEITURE

O'Toole, D.J.,

WHEREAS, on or about July 21, 2004, a federal grand jury sitting in the District of Massachusetts returned a Two Count Indictment charging defendant Dwayne Branco (the "Defendant"), with the following violations: Felon in Possession, in violation of 18 U.S.C. § 922(g)(1)(Count One), and Possession of Crack Cocaine with Intent to Distribute, in violation of 21 U.S.C. § 841(a)(1)(Count Two);

AND WHEREAS, the Indictment sought the forfeiture, as a result of committing the offense alleged in Count One of the Indictment, of any firearm involved in or used in the offense, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461, but not limited to, one Colt Government Model First Edition .380 caliber pistol, serial number 380FES0013(the "Property");

AND WHEREAS, on or about January 6, 2005, a Change of Plea Hearing was held whereby the Defendant entered a plea of guilty to Counts One and Two of the Indictment;

AND WHEREAS, by virtue of the Defendant's guilty plea and

pursuant to 21 U.S.C. § 853(a), incorporated by 28 U.S.C. § 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure, the United States is now entitled to a Preliminary Order of Forfeiture against the Property.

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, and DECREED:

1. The United States' Motion for Entry of a Preliminary Order of Forfeiture is ALLOWED.

2. Based upon the conviction of the Defendant, the United States is hereby authorized to seize the Property and it is hereby forfeited to the United States of America for disposition pursuant to the provisions of 18 U.S.C. § 924(d), 28 U.S.C. § 2461, and 21 U.S.C. § 853.

3. The United States shall hold the seized Property in its secure control and custody.

4. Pursuant to 21 U.S.C. § 853(n), as incorporated by 28 U.S.C. § 2461(c), the United States shall take any other appropriate steps pursuant to the statute's applicable provisions to seize, forfeit, and dispose of the Property, giving notice as required by law.

5. Pursuant to 21 U.S.C. § 853(n), as incorporated by 28 U.S.C. § 2461(c), following the Court's disposition of any petitions filed under this subsection, or if no petitions are filed following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of such petitions, the United States of America shall have clear title to the Property.

6. Upon adjudication of all third party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), as incorporated by 28 U.S.C. § 2461(c), and Rule 32.2(c) of the Federal Rules of Criminal Procedure.

GEORGE A. O'TOOLE, JR.
United States District Judge

Date: